

*Levy*, 401 U.S. —. This point of distinction becomes even stronger in this case than in *Labine* as *without* acknowledgment, an illegitimate child has a right of recovery of workmen's compensation benefits under Section 1232(8), whereas without acknowledgment, an illegitimate child does not have a right of inheritance at all under Louisiana's succession laws. Louisiana Civil Code Article 920 (LSA-C.C. Art. 920) provides that:

"Bastard, adulterous or incestuous children shall not enjoy the right of inheriting the estates of their natural father or mother in any of the cases above mentioned, the laws allowing them nothing more than a mere alimony."

Thus, without acknowledgment, illegitimate children in Louisiana's Workmen's Compensation Law have a right of recovery where they do not have a right of inheritance. In addition, acknowledged illegitimate children have a right of inheritance as noted in *Labine*, although they are still *not treated equally with legitimate children*. This is not true in Louisiana Workmen's Compensation Law, as Section 1021(3) clearly provides that *an acknowledged illegitimate child is treated equally under Louisiana's Workmen's Compensation Law in recovering workmen's compensation benefits*. Thus, the insurmountable barrier found in *Levy* is much less possible in Louisiana's Workmen's Compensation Law than in Louisiana succession law and the *Labine* decision has already found it not to exist in Louisiana's succession law.

In addition, by the setting up of classifications and ranking of classifications under Section 1232 of Louisiana's Workmen's Compensation Law, there is "discrimination;" however, this "discrimination" is no different than that noted in *Labine* to exist in Louisiana succession law, as there is "discrimination" therein against collateral relations as opposed to ascendants and against ascendants as opposed to descendants.

401 U.S. —. The "discrimination" of Section 1232 sets up classifications which also "discriminate" against dependent parents as opposed to illegitimate acknowledged or legitimate children.

As the Court noted in its opinion in the *Labine* decision, "*Levy* did not say and cannot fairly be read to say that a State can never treat an illegitimate child differently from legitimate offspring." 401 U.S. —. In addition, the Court in *Labine* noted that "... the choices reflected by the intestate succession statutes are choices which it is within the power of the State to make. The Federal Constitution does not give this Court the power to overturn the State's choice under the guise of constitutional interpretation because the Justices of this Court can provide better rules." 401 U.S. —. This rationale is applicable to this case, as the State of Louisiana, as reflected in the opinion of the Louisiana Supreme Court, feels that the ranking of legitimate children over unacknowledged illegitimate children protects legally recognized family relationships which protection was within the legitimate power of Louisiana. *Stokes vs. Aetna Casualty and Surety Company*, 257 La. 424, 242 So.2d 567 (1971), at page 570 (R. 75-76).

Thus, it should be clearly seen that this case is well-embraced within the rationale of the *Labine* decision as opposed to the *Levy* decision. In addition, as noted by the *Levy* decision, a State has broad power in making classifications and, "In applying the Equal Protection Clause to social and economic legislation, we give great latitude to the Legislature in making classifications." 391 U.S. 71. The Louisiana Workmen's Compensation Law is certainly social and economic legislation which, according to this Honorable Court as stated in *Levy*, Louisiana had a broad power to set up and should be given great latitude in the application of the Equal Protection Clause.

**CONCLUSION**

Therefore, respondents respectfully submit this case is governed by the rationale of the *Labine* decision and not the *Levy* decision, as there is no invidious discrimination in the classification of unacknowledged illegitimate children under Louisiana's Workmen's Compensation Law as "other dependents" entitled to benefits after legitimate children. Thus, petitioner's claim should be denied.

Respectfully submitted,

DALE, OWEN, RICHARDSON,  
TAYLOR & MATHEWS

W. Henson Moore

P.O. Box 3177, Baton Rouge, La. 70821  
Counsel for Respondents